



## DEPARTMENT OF COMMERCE

### International Trade Administration

Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Notice of Second Amended Final Determination; Notice of Amended Order; Notice of Resumption of First and Reinitiation of Second Antidumping Duty Administrative Reviews; Notice of Opportunity for Withdrawal; and Notice of Assessment in Third Antidumping Duty Administrative Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On August 31, 2021, the Court of Appeals for the Federal Circuit (CAFC) issued its final judgment in *Goodluck India Limited v. United States*, Consol. Court no. 2020-2017, reversing and remanding the August 13, 2019 decision of the Court of International Trade (CIT).

On November 17, 2021, in accordance with the CAFC's decision, the CIT issued a final judgment vacating its August 13, 2019 opinion and sustained the Department of Commerce (Commerce)'s final determination in the less-than-fair-value (LTFV) investigation of certain cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) from India. Therefore, Commerce is hereby reinstating the final determination from the LTFV investigation and antidumping duty order with respect to the dumping margin assigned to Goodluck India Limited (Goodluck). As a result, we are: (1) revising the prior revocation of the order with respect to Goodluck; (2) resuming the discontinued first administrative review with respect to Goodluck; (3) reinitiating the second administrative review with respect to all entries produced and exported by Goodluck during the period of review (POR); and (4) directing U.S. Customs and Border Protection (CBP) to assess final antidumping duties on all entries produced and exported by Goodluck during the third administrative review POR.

DATES: Applicable September 10, 2021.

FOR FURTHER INFORMATION CONTACT: Nathan James, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department

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## SUPPLEMENTARY INFORMATION:

### Background

On April 16, 2018, Commerce published its *Final Determination* in the LTFV investigation of cold-drawn mechanical tubing from India.<sup>1</sup> In the *Final Determination*, Commerce applied a rate based on adverse facts available to Goodluck after finding that the company failed to accurately report product “control numbers” in its home market sales and cost of production databases.<sup>2</sup> Although Goodluck attempted to submit new databases at the start of Commerce’s verification of Goodluck’s questionnaire responses, Commerce declined to accept the revised information, determining that such a revision did not constitute a “minor correction.”<sup>3</sup> Therefore, Commerce assigned Goodluck a rate of 33.80 percent. On June 11, 2018, Commerce published its *AD Order* on cold-drawn mechanical tubing from India.<sup>4</sup>

Goodluck appealed Commerce’s *Final Determination*. On August 13, 2019, the CIT remanded the *Final Determination* to Commerce and instructed Commerce to consider the revised databases provided by Goodluck.<sup>5</sup> On remand, and under respectful protest, Commerce issued its final results of redetermination in accordance with the Court’s order, calculating an estimated weighted-average dumping margin of 0.00 percent for Goodluck.<sup>6</sup> In calculating the revised dumping margin for Goodluck, Commerce relied on the corrections provided by

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<sup>1</sup> See *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Final Affirmative Determination of Sales at Less than Fair Value*, 83 FR 16296 (April 16, 2018) (*Final Determination*) and accompanying Issues and Decision Memorandum (IDM).

<sup>2</sup> See IDM at Comments 1 and 2.

<sup>3</sup> *Id.* at Comment 1.

<sup>4</sup> See *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel From the People's Republic of China, the Federal Republic of Germany, India, Italy, the Republic of Korea, and Switzerland: Antidumping Duty Orders; and Amended Final Determinations of Sales at Less Than Fair Value for the People's Republic of China and Switzerland*, 83 FR 26962 (June 11, 2018) (*AD Order*).

<sup>5</sup> See *Goodluck India Limited v. United States*, Court No. 18-00162, Slip Op. 19-110 (CIT August 13, 2019) (*Remand Order*).

<sup>6</sup> See *Final Results of Redetermination Pursuant to Court Remand, Goodluck India Limited v. United States*, Court No. 18-00162, Slip Op. 19-110, dated December, 23 2019 (*Final Redetermination*), available at <https://access.trade.gov/resources/remands/19-110.pdf>.

Goodluck. On April 30, 2020, the CIT sustained Commerce’s Final Remand Redetermination.<sup>7</sup> On May 27, 2020, Commerce published the *Amended Final/Timken Notice* relating to the CIT’s decision, in which we issued an amended final determination, and partially revoked the *Order* with respect to Goodluck.<sup>8</sup>

The petitioners<sup>9</sup> challenged the CIT’s decision sustaining the Final Remand Redetermination and appealed the decision to the CAFC. On August 31, 2021, the CAFC reversed and remanded the CIT’s decision affirming the Final Remand Redetermination.<sup>10</sup> Following the CAFC’s decision, on November 17, 2021, the CIT subsequently vacated its *Remand Order* and sustained Commerce’s original *Final Determination*.<sup>11</sup>

#### Amended Final Determination

Commerce is hereby revising the *Amended Final Determination*, which was issued pursuant to the CIT’s now-vacated judgement in the *Amended Final/Timken Notice*. Consistent with Commerce’s decision in the LTFV investigation, Commerce is revising the *Amended Final Determination* and assigning the following dumping margin to Goodluck:

Exporter	Estimated weighted-average dumping margin (percent)	Cash deposit rate (adjusted for offset(s)) (percent)
Goodluck India Limited	33.80	33.70

#### Amended Antidumping Duty Order

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<sup>7</sup> See *Goodluck India Limited v. United States*, Court No. 18-00162, Slip Op. 20-57 (CIT April 30, 2020).

<sup>8</sup> See *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel From India: Notice of Court Decision Not in Harmony With Final Determination of Sales at Less Than Fair Value; Notice of Amended Final Determination Pursuant to Court Decision; and Notice of Revocation of Antidumping Duty Order, in Part*, 85 FR 31742 (May 27, 2020) (*Amended Final/Timken Notice*).

<sup>9</sup> The petitioners are: ArcelorMittalTubular Products; Michigan Seamless Tube, LLC; Plymouth Tube Co., USA; PTC Alliance Corp.; Webco Industries, Inc.; and Zekelman Industries, Inc.

<sup>10</sup> See *Goodluck India Limited v. United States*, 11 F.4th 1335 (Fed. Cir. 2021) (*CAFC Goodluck Decision*)

<sup>11</sup> See *Goodluck India Limited v. United States*, Court No. 18-00162, ECF No. 74 (CIT November 17, 2021).

As a result of this amended final determination, in which Commerce assigned a dumping margin of 33.80 percent to Goodluck, Commerce is reinstating the *Order* with respect to Goodluck.

#### Resumption of Discontinued Antidumping Duty Administrative Reviews for Goodluck

In the *Amended Final/Timken Notice*, Commerce amended the final determination and *AD Order* in this proceeding and stated that “{a}s a result of this amended final determination, in which Commerce has calculated an estimated weighted-average dumping margin of 0.00 percent for Goodluck, Commerce is hereby excluding merchandise produced and exported by Goodluck from the AD Order.”<sup>12</sup> As a result of the CIT’s decision at that time, we discontinued the first administrative review with respect to Goodluck<sup>13</sup> and we did not conduct a review of entries both produced and exported by Goodluck in the second administrative review.<sup>14</sup>

However, as discussed above, the CAFC reversed the CIT’s decision, and, as a result, Goodluck is now subject to the *AD Order*. Therefore, we are resuming the first administrative review with respect to Goodluck and are also reinitiating the second administrative review with respect to all entries produced and exported by Goodluck during the POR.<sup>15</sup> We will not revisit these reviews for any company other than Goodluck.

Given the unique circumstances at issue, Commerce is permitting parties an opportunity to withdraw their request(s) for either administrative review, if they wish to do so. Any such withdrawal requests must be submitted within 14 days of publication of this *Federal Register*

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<sup>12</sup> *Timken Notice*, 85 FR 31742.

<sup>13</sup> See *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review, and Partial Discontinuation of Review; 2017-2019*; 85 FR 66930 (October 21, 2020).

<sup>14</sup> See *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel From India: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2019-2020*, 86 FR 59982, 59984 (October 29, 2021).

<sup>15</sup> The first review covers the period November 22, 2017, through May 31, 2019. The second review covers the period June 1, 2019, through May 31, 2020. When Commerce previously conducted the second administrative review, we only examined entries of subject merchandise produced, but not exported by, Goodluck, and entries of subject merchandise exported, but not produced by, Goodluck. *Id.*

notice on the record of the respective administrative review in ACCESS.<sup>16</sup> Parties are reminded that such requests are to be filed electronically using ACCESS and that electronically filed documents must be received successfully in their entirety by 5 p.m. Eastern Time on the due date. If all review requests are withdrawn for Goodluck for either administrative review, Commerce intends to issue a subsequent *Federal Register* notice rescinding the administrative review with respect to Goodluck and directing CBP to assess final antidumping duties at 33.70 percent, the cash deposit rate that would have prevailed in the absence of the now-vacated CIT decision.

Following the period for withdrawal of review requests, if there are any remaining review requests for Goodluck, Commerce will invite parties to provide comments relating to our approach in conducting these administrative reviews (including, for example, whether Goodluck should be treated as a mandatory respondent or a non-selected company). A memorandum outlining the timeline for comments will be placed on the records of each administrative review segment.

#### Notice of Assessment

Commerce did not receive a request for an administrative review of the antidumping duty order with respect to Goodluck for the period of June 1, 2020, through May 31, 2021, *i.e.*, the third administrative review. Therefore, in accordance with 19 CFR 351.212(c), we will instruct CBP to liquidate all entries for Goodluck and to assess antidumping duties on merchandise entered, or withdrawn from warehouse, for consumption at 33.70 percent, the cash deposit rate that would have prevailed in the absence of the now-vacated CIT decision.

#### Cash Deposit Requirements

Commerce will issue revised cash deposit instructions to CBP. Effective September 10, 2021, Goodluck's cash deposit rate will be 33.70 percent.

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<sup>16</sup> ACCESS is Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System, and is available to registered users at <http://access.trade.gov>.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: December 21, 2021.

Ryan Majerus  
Deputy Assistant Secretary  
for Policy and Negotiations,  
performing the non-exclusive functions and duties of the  
Assistant Secretary for Enforcement and Compliance.

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